

HOUSE BILL No. 1089

DIGEST OF INTRODUCED BILL

Citations Affected: IC 16-18-2; IC 16-21; IC 16-25-4.5-1; IC 16-31-6.5-2; IC 16-34; IC 16-36-1-3.5; IC 16-41-16; IC 16-51; IC 22-9-1-3; IC 23-14-31-39; IC 25-22.5; IC 25-36.1-2-1; IC 27-8; IC 27-13-7-7.5; IC 31-9-2-84.8; IC 31-39; IC 34-23-2-1; IC 35-31.5-2; IC 35-42; IC 35-50-2; IC 35-52-16.

Synopsis: Protection of life. Repeals the statutes authorizing and regulating abortion. Finds that human physical life begins when a human ovum is fertilized by a human sperm. Asserts a compelling state interest in protecting human physical life from the moment that human physical life begins. Provides that court decisions to enjoin the law are void. Specifies the duty of Indiana officials to enforce the law. Specifies that federal officials attempting to enforce contrary court orders against Indiana officials enforcing the law shall be subject to arrest by Indiana law enforcement. Redefines "human being" for purposes of the criminal code to conform to the finding that human physical life begins when a human ovum is fertilized by a human sperm. Makes other conforming changes.

Effective: Upon passage.

Nisly

January 16, 2020, read first time and referred to Committee on Public Policy.



Second Regular Session of the 121st General Assembly (2020)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2019 Regular Session of the General Assembly.

HOUSE BILL No. 1089

A BILL FOR AN ACT to amend the Indiana Code concerning health.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 16-18-2-1.5 IS REPEALED [EFFECTIVE UPON
2 PASSAGE]. Sec. 1.5. (a) "Abortion clinic", for purposes of IC 16-21-2,
3 IC 16-34-2-4.7, IC 16-34-3, and IC 16-41-16, means a health care
4 provider (as defined in section 163(d)(1) of this chapter) that:

- 5 (1) performs surgical abortion procedures; or
6 (2) beginning January 1, 2014, provides an abortion inducing
7 drug for the purpose of inducing an abortion.

8 (b) The term does not include the following:

- 9 (1) A hospital that is licensed as a hospital under IC 16-21-2.
10 (2) An ambulatory outpatient surgical center that is licensed as an
11 ambulatory outpatient surgical center under IC 16-21-2.
12 (3) A health care provider that provides, prescribes, administers,
13 or dispenses an abortion inducing drug to fewer than five (5)
14 patients per year for the purposes of inducing an abortion.

15 SECTION 2. IC 16-18-2-1.6, AS ADDED BY P.L.136-2013,
16 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
17 UPON PASSAGE]: Sec. 1.6. "Abortion inducing drug" means a



1 medicine, drug, or substance ~~prescribed or dispensed injected,~~
 2 **ingested, or absorbed** with the intent of terminating a clinically
 3 diagnosable pregnancy with the knowledge that the termination will,
 4 with reasonable likelihood, cause the death of the ~~fetus:~~ **unborn child.**
 5 The term includes the off-label use of a drug known to have abortion
 6 inducing properties if the drug is ~~prescribed injected, ingested, or~~
 7 **absorbed** with the intent of causing an abortion.

8 SECTION 3. IC 16-18-2-1.7 IS REPEALED [EFFECTIVE UPON
 9 PASSAGE]. ~~Sec. 1.7: "Abortion complication"; for purposes of~~
 10 ~~IC 16-34-2-4.7; has the meaning set forth in IC 16-34-2-4.7.~~

11 SECTION 4. IC 16-18-2-9.4 IS REPEALED [EFFECTIVE UPON
 12 PASSAGE]. ~~Sec. 9.4: "Affiliate"; for purposes of IC 16-21-2-11, means~~
 13 ~~any person who directly or indirectly controls; is controlled by; or is~~
 14 ~~under common control of another person.~~

15 SECTION 5. IC 16-18-2-18.5 IS REPEALED [EFFECTIVE UPON
 16 PASSAGE]. ~~Sec. 18.5: "Any other disability"; for purposes of IC 16-34;~~
 17 ~~has the meaning set forth in IC 16-34-4-1.~~

18 SECTION 6. IC 16-18-2-69, AS AMENDED BY P.L.164-2013,
 19 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 20 UPON PASSAGE]: Sec. 69. (a) "Consent", for purposes of IC 16-34;
 21 means a written agreement to submit to an abortion:

22 (1) after the consenting party has had a full explanation of the
 23 abortion procedure to be performed; including disclosures and
 24 information required by IC 16-34-2-1.1; and

25 (2) as evidenced by the signature of the consenting party on a
 26 consent form prescribed by the state department of health.

27 (b) "Consent", for purposes of IC 16-36-6, has the meaning set forth
 28 in IC 16-36-6-1.

29 SECTION 7. IC 16-18-2-96.4 IS REPEALED [EFFECTIVE UPON
 30 PASSAGE]. ~~Sec. 96.4: (a) "Dismemberment abortion" means an~~
 31 ~~abortion with the purpose of killing a living fetus in which the living~~
 32 ~~fetus is extracted one (1) piece at a time from the uterus through~~
 33 ~~clamps, grasping forceps, tongs, scissors, or another similar instrument~~
 34 ~~that, through the convergence of two (2) rigid levers, slices, crushes; or~~
 35 ~~grasps a portion of the fetus's body to cut or rip it off.~~

36 (b) "Dismemberment abortion" does not include an abortion that
 37 uses suction to dismember a fetus by sucking fetal parts into a
 38 collection container.

39 SECTION 8. IC 16-18-2-100.5 IS REPEALED [EFFECTIVE
 40 UPON PASSAGE]. ~~Sec. 100.5: "Down syndrome"; for purposes of~~
 41 ~~IC 16-34; has the meaning set forth in IC 16-34-4-2.~~

42 SECTION 9. IC 16-18-2-128.3 IS REPEALED [EFFECTIVE



UPON PASSAGE]. ~~Sec. 128.3: "Fertilization", for purposes of~~
~~IC 16-34, means the fusion of a human spermatozoon with a human~~
~~ovum.~~

SECTION 10. IC 16-18-2-128.7, AS AMENDED BY P.L.213-2016,
 SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 UPON PASSAGE]: Sec. 128.7. "Fetus", for purposes of ~~IC 16-34 and~~
 IC 16-41-16, means an unborn child, irrespective of gestational age or
 the duration of the pregnancy.

SECTION 11. IC 16-18-2-161, AS AMENDED BY P.L.113-2015,
 SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 UPON PASSAGE]: Sec. 161. (a) "Health care facility" includes:

(1) hospitals licensed under IC 16-21-2, private mental health
 institutions licensed under IC 12-25, and tuberculosis hospitals
 established under IC 16-11-1 (before its repeal);

(2) health facilities licensed under IC 16-28; and

(3) rehabilitation facilities and kidney disease treatment centers.

(b) "Health care facility", for purposes of IC 16-21-11, ~~and~~
~~IC 16-34-3~~, has the meaning set forth in IC 16-21-11-1.

(c) "Health care facility", for purposes of IC 16-28-13, has the
 meaning set forth in IC 16-28-13-0.5.

SECTION 12. IC 16-18-2-163, AS AMENDED BY P.L.2-2019,
 SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 UPON PASSAGE]: Sec. 163. (a) "Health care provider", for purposes
 of IC 16-21 and IC 16-41, means any of the following:

(1) An individual, a partnership, a corporation, a professional
 corporation, a facility, or an institution licensed or legally
 authorized by this state to provide health care or professional
 services as a licensed physician, a psychiatric hospital, a hospital,
 a health facility, an emergency ambulance service (IC 16-31-3),
 a dentist, a registered or licensed practical nurse, a midwife, an
 optometrist, a pharmacist, a podiatrist, a chiropractor, a physical
 therapist, a respiratory care practitioner, an occupational therapist,
 a psychologist, a paramedic, an emergency medical technician, an
 advanced emergency medical technician, an athletic trainer, or a
 person who is an officer, employee, or agent of the individual,
 partnership, corporation, professional corporation, facility, or
 institution acting in the course and scope of the person's
 employment.

(2) A college, university, or junior college that provides health
 care to a student, a faculty member, or an employee, and the
 governing board or a person who is an officer, employee, or agent
 of the college, university, or junior college acting in the course



and scope of the person's employment.

(3) A blood bank, community mental health center, community intellectual disability center, community health center, or migrant health center.

(4) A home health agency (as defined in IC 16-27-1-2).

(5) A health maintenance organization (as defined in IC 27-13-1-19).

(6) A health care organization whose members, shareholders, or partners are health care providers under subdivision (1).

(7) A corporation, partnership, or professional corporation not otherwise qualified under this subsection that:

(A) provides health care as one (1) of the corporation's, partnership's, or professional corporation's functions;

(B) is organized or registered under state law; and

(C) is determined to be eligible for coverage as a health care provider under IC 34-18 for the corporation's, partnership's, or professional corporation's health care function.

Coverage for a health care provider qualified under this subdivision is limited to the health care provider's health care functions and does not extend to other causes of action.

(b) "Health care provider", for purposes of IC 16-35, has the meaning set forth in subsection (a). However, for purposes of IC 16-35, the term also includes a health facility (as defined in section 167 of this chapter).

(c) "Health care provider", for purposes of IC 16-32-5, IC 16-36-5, and IC 16-36-6, means an individual licensed or authorized by this state to provide health care or professional services as:

(1) a licensed physician;

(2) a registered nurse;

(3) a licensed practical nurse;

(4) an advanced practice registered nurse;

(5) a certified nurse midwife;

(6) a paramedic;

(7) an emergency medical technician;

(8) an advanced emergency medical technician;

(9) an emergency medical responder, as defined by section 109.8 of this chapter;

(10) a licensed dentist;

(11) a home health aide, as defined by section 174 of this chapter;

or

(12) a licensed physician assistant.

The term includes an individual who is an employee or agent of a



1 health care provider acting in the course and scope of the individual's
2 employment.

3 (d) "Health care provider", for purposes of ~~section 1-5 of this~~
4 ~~chapter and~~ IC 16-40-4, means any of the following:

5 (1) An individual, a partnership, a corporation, a professional
6 corporation, a facility, or an institution licensed or authorized by
7 the state to provide health care or professional services as a
8 licensed physician, a psychiatric hospital, a hospital, a health
9 facility, an emergency ambulance service (IC 16-31-3), an
10 ambulatory outpatient surgical center, a dentist, an optometrist, a
11 pharmacist, a podiatrist, a chiropractor, a psychologist, or a
12 person who is an officer, employee, or agent of the individual,
13 partnership, corporation, professional corporation, facility, or
14 institution acting in the course and scope of the person's
15 employment.

16 (2) A blood bank, laboratory, community mental health center,
17 community intellectual disability center, community health
18 center, or migrant health center.

19 (3) A home health agency (as defined in IC 16-27-1-2).

20 (4) A health maintenance organization (as defined in
21 IC 27-13-1-19).

22 (5) A health care organization whose members, shareholders, or
23 partners are health care providers under subdivision (1).

24 (6) A corporation, partnership, or professional corporation not
25 otherwise specified in this subsection that:

26 (A) provides health care as one (1) of the corporation's,
27 partnership's, or professional corporation's functions;

28 (B) is organized or registered under state law; and

29 (C) is determined to be eligible for coverage as a health care
30 provider under IC 34-18 for the corporation's, partnership's, or
31 professional corporation's health care function.

32 (7) A person that is designated to maintain the records of a person
33 described in subdivisions (1) through (6).

34 (e) "Health care provider", for purposes of IC 16-45-4, has the
35 meaning set forth in 47 CFR 54.601(a).

36 SECTION 13. IC 16-18-2-179, AS AMENDED BY P.L.99-2007,
37 SECTION 154, IS AMENDED TO READ AS FOLLOWS
38 [EFFECTIVE UPON PASSAGE]: Sec. 179. (a) "Hospital", except as
39 provided in subsections (b) through (g); (f), means a hospital that is
40 licensed under IC 16-21-2.

41 (b) "Hospital", for purposes of IC 16-21, means an institution, a
42 place, a building, or an agency that holds out to the general public that



it is operated for hospital purposes and that it provides care, accommodations, facilities, and equipment, in connection with the services of a physician, to individuals who may need medical or surgical services. The term does not include the following:

(1) Freestanding health facilities.

(2) Hospitals or institutions specifically intended to diagnose, care, and treat the following:

(A) Individuals with a mental illness (as defined in IC 12-7-2-117.6).

(B) Individuals with developmental disabilities (as defined in IC 12-7-2-61).

(3) Offices of physicians where patients are not regularly kept as bed patients.

(4) Convalescent homes, boarding homes, or homes for the aged.

(c) "Hospital", for purposes of IC 16-22-8, has the meaning set forth in IC 16-22-8-5.

(d) "Hospital", for purposes of IC 16-23.5, has the meaning set forth in IC 16-23.5-1-9.

(e) "Hospital" or "tuberculosis hospital", for purposes of IC 16-24, means an institution or a facility for the treatment of individuals with tuberculosis.

~~(f) "Hospital", for purposes of IC 16-34, means a hospital (as defined in subsection (b)) that:~~

~~(1) is required to be licensed under IC 16-21-2; or~~

~~(2) is operated by an agency of the United States.~~

~~(g) (f) "Hospital", for purposes of IC 16-41-12, has the meaning set forth in IC 16-41-12-6.~~

SECTION 14. IC 16-18-2-201.5, AS ADDED BY P.L.213-2016, SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 201.5. "Lethal fetal anomaly", for purposes of IC 16-25-4.5, ~~and IC 16-34~~, has the meaning set forth in IC 16-25-4.5-2.

SECTION 15. IC 16-18-2-223.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 223.5: "Medical emergency", for purposes of ~~IC 16-34~~, means a condition that, on the basis of the attending physician's good faith clinical judgment, complicates the medical condition of a pregnant woman so that it necessitates the immediate termination of her pregnancy to avert her death or for which a delay would create serious risk of substantial and irreversible impairment of a major bodily function.

SECTION 16. IC 16-18-2-254.2 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 254.2: "Objective scientific information", for



purposes of IC 16-34; means data that have been reasonably derived from scientific literature and verified or supported by research in compliance with scientific methods.

SECTION 17. IC 16-18-2-267 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 267: "Parental consent"; for purposes of IC 16-34; means the written consent of the parent or legal guardian of an unemancipated pregnant woman less than eighteen (18) years of age to the performance of an abortion on the minor pregnant woman.

SECTION 18. IC 16-18-2-267.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 267.5: "Partial birth abortion" means an abortion in which the person performing the abortion partially vaginally delivers a living fetus before killing the fetus and completing the delivery.

SECTION 19. IC 16-18-2-273.5, AS ADDED BY P.L.213-2016, SECTION 7, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 273.5. "Perinatal hospice", for purposes of IC 16-25-4.5, and IC 16-34; has the meaning set forth in IC 16-25-4.5-3.

SECTION 20. IC 16-18-2-287.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 287.5: "Postfertilization age", for purposes of IC 16-34; means the age of the fetus calculated from the date of the fertilization of the ovum.

SECTION 21. IC 16-18-2-287.9 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 287.9: "Potential diagnosis"; for purposes of IC 16-34; has the meaning set forth in IC 16-34-4-3.

SECTION 22. IC 16-18-2-293.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 293.5: "Probable gestational age of the fetus"; for purposes of IC 16-34; means what, in the judgment of the attending physician, will with reasonable probability be the gestational age of the fetus at the time an abortion is planned to be performed.

SECTION 23. IC 16-18-2-327.9 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 327.9: "Serious health risk"; for purposes of IC 16-34-2-1(c); means that in reasonable medical judgment; a condition exists that has complicated the mother's medical condition and necessitates an abortion to prevent death or a serious risk of substantial and irreversible physical impairment of a major bodily function. The term does not include psychological or emotional conditions. A medical condition may not be determined to exist based on a claim or diagnosis that the woman will engage in conduct that she intends to result in her death or in physical harm.

SECTION 24. IC 16-18-2-328.6 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 328.6: "Sex selective abortion"; for purposes



of IC 16-34-4, has the meaning set forth in IC 16-34-4-4.

SECTION 25. IC 16-18-2-355 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 355: "Trimester", for purposes of IC 16-34, means any one (1) of three (3) equal periods of time of normal gestation period of a pregnant woman derived by dividing the period of gestation into three (3) equal parts of three (3) months each and to be designated as the first trimester, second trimester, and the third trimester, respectively.

SECTION 26. IC 16-18-2-365 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 365: "Viability", for purposes of IC 16-34, means the ability of a fetus to live outside the mother's womb.

SECTION 27. IC 16-21-1-7, AS AMENDED BY P.L.264-2019, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. (a) The executive board may adopt rules under IC 4-22-2 necessary to protect the health, safety, rights, and welfare of patients, including the following:

(1) Rules pertaining to the operation and management of hospitals, ambulatory outpatient surgical centers, ~~abortion clinics~~, and birthing centers.

(2) Rules establishing standards for equipment, facilities, and staffing required for efficient and quality care of patients.

(b) Notwithstanding 410 IAC 15-1.7-1 and 410 IAC 15-2.7-1, the following apply to a publication that is referred to in 410 IAC 15:

(1) The Guidelines for Construction and Equipment of Hospital and Medical Facilities refers to the following:

(A) The 2018 edition or most recent publication of the Guidelines for Design and Construction of Hospitals.

(B) The 2018 edition or most recent publication of the Guidelines for Design and Construction of Outpatient Facilities.

(2) The National Fire Protection Association (NFPA) 101, Life Safety Code Handbook publication refers to the 2018 edition or most recent publication.

(3) The National Fire Protection Association 99, Health Care Facilities publication refers to the 2018 edition or most recent publication.

(4) A publication incorporated by reference is not effective until one hundred eighty (180) days after the date of publication.

The executive board shall amend 410 IAC 15-1.7-1 and 410 IAC 15-2.7-1 to reflect the requirements in this subsection. This subsection expires July 1, 2021.

SECTION 28. IC 16-21-2-1, AS AMENDED BY P.L.96-2005,



SECTION 5, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) Except as provided in subsection (b), this chapter applies to all hospitals, ambulatory outpatient surgical centers, ~~abortion clinics~~, and birthing centers.

(b) This chapter does not apply to a hospital operated by the federal government.

(c) This chapter does not affect a statute pertaining to the placement and adoption of children.

SECTION 29. IC 16-21-2-2, AS AMENDED BY P.L.96-2005, SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. The state department shall license and regulate:

- (1) hospitals;
- (2) ambulatory outpatient surgical centers; **and**
- (3) birthing centers. ~~and~~
- ~~(4) abortion clinics.~~

SECTION 30. IC 16-21-2-2.5, AS AMENDED BY P.L.205-2018, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. (a) The state department shall adopt rules under IC 4-22-2 to do the following concerning birthing centers: ~~and abortion clinics:~~

- (1) Establish minimum license qualifications.
- (2) Establish the following requirements:
 - (A) Sanitation standards.
 - (B) Staff qualifications.
 - (C) Necessary emergency equipment.
 - (D) Procedures to provide emergency care.
 - (E) Procedures to monitor patients after the administration of anesthesia.
 - (F) Procedures to provide follow-up care for patient complications.
 - (G) Quality assurance standards.
 - (H) Infection control.
 - ~~(I) Provision of informed consent brochures, as described in IC 16-34-2-1.5, in English, Spanish, and a third language determined by the state department, inside abortion clinics.~~
 - ~~(J) (I)~~ (I) Provision of a hotline telephone number that provides assistance for patients who are
 - ~~(i) coerced into an abortion; or~~
 - ~~(ii) victims of sex trafficking.~~
 - ~~(K) (J)~~ (J) Annual training by law enforcement officers on identifying and assisting women who are



- 1 (i) coerced into an abortion; or
- 2 (ii) victims of sex trafficking.
- 3 (3) Prescribe the operating policies, supervision, and maintenance
- 4 of medical records, including the requirement that all forms that
- 5 require a patient signature be stored in the patient's medical
- 6 record.
- 7 (4) Establish procedures for the issuance, renewal, denial, and
- 8 revocation of licenses under this chapter. The rules adopted under
- 9 this subsection must address the following:
- 10 (A) The form and content of the license.
- 11 (B) The collection of an annual license fee.
- 12 (5) Prescribe the procedures and standards for inspections.
- 13 (6) Prescribe procedures for:
- 14 (A) implementing a plan of correction to address any
- 15 violations of any provision of this chapter or any rules adopted
- 16 under this chapter; and
- 17 (B) implementing a system for the state department to follow
- 18 if the ~~abortion clinic~~ or birthing center fails to comply with the
- 19 plan of correction described in clause (A) and disciplinary
- 20 action is needed.
- 21 (b) A person who knowingly or intentionally:
- 22 (1) operates a birthing center ~~or an abortion clinic~~ that is not
- 23 licensed under this chapter; or
- 24 (2) advertises the operation of a birthing center ~~or an abortion~~
- 25 ~~clinic~~ that is not licensed under this chapter;
- 26 commits a Class A misdemeanor.
- 27 (c) ~~Not later than January 1, 2019, the state department shall:~~
- 28 (1) ~~adopt separate rules under IC 4-22-2, including those required~~
- 29 ~~under subsection (a); for existing and future abortion clinics that~~
- 30 ~~perform only surgical abortions;~~
- 31 (2) ~~adopt separate rules under IC 4-22-2, including those required~~
- 32 ~~under subsection (a); for existing and future abortion clinics that~~
- 33 ~~perform abortions only through the provision of an abortion~~
- 34 ~~inducing drug; and~~
- 35 (3) establish procedures regarding the issuance of licenses to
- 36 existing and future abortion clinics that:
- 37 (A) perform only surgical abortions;
- 38 (B) perform abortions only through the provision of an
- 39 abortion inducing drug; or
- 40 (C) perform both surgical abortions and abortions through the
- 41 provision of abortion inducing drugs.
- 42 (d) A rule or emergency rule adopted under subsection (c)(1); (c)(2);



1 or (c)(3) applies; respectively, to every abortion clinic of the type
 2 described in subsection (c)(1), (c)(2), or (c)(3); regardless of the date
 3 of adoption of the rule or emergency rule.

4 (e) Before January 1, 2019, the state department shall adopt
 5 emergency rules in the manner provided under IC 4-22-2-37.1 to carry
 6 out the duties established in this section under the following:

7 (1) Subsection (a)(2)(E):

8 (2) Subsection (a)(2)(F):

9 (3) Subsection (a)(2)(I):

10 (4) Subsection (a)(2)(J):

11 (5) Subsection (a)(2)(K):

12 (6) Subsection (a)(3):

13 (7) Subsection (a)(5):

14 (8) Subsection (a)(6):

15 This subsection expires July 1, 2019.

16 SECTION 31. IC 16-21-2-2.6 IS REPEALED [EFFECTIVE UPON
 17 PASSAGE]. Sec. 2-6: The state department shall inspect an abortion
 18 clinic at least one (1) time per calendar year and may conduct a
 19 complaint inspection as needed:

20 SECTION 32. IC 16-21-2-10, AS AMENDED BY P.L.96-2005,
 21 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 22 UPON PASSAGE]: Sec. 10. A:

23 (1) person;

24 (2) state, county, or local governmental unit; or

25 (3) division, a department, a board, or an agency of a state,
 26 county, or local governmental unit;

27 must obtain a license from the state health commissioner under
 28 IC 4-21.5-3-5 before establishing, conducting, operating, or
 29 maintaining a hospital, an ambulatory outpatient surgical center, an
 30 abortion clinic, or a birthing center.

31 SECTION 33. IC 16-21-2-11, AS AMENDED BY P.L.205-2018,
 32 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 33 UPON PASSAGE]: Sec. 11. (a) An applicant must submit an
 34 application for a license on a form prepared by the state department
 35 showing that:

36 (1) the applicant is of reputable and responsible character;

37 (2) the applicant is able to comply with the minimum standards
 38 for a hospital, an ambulatory outpatient surgical center, an
 39 abortion clinic, or a birthing center, and with rules adopted under
 40 this chapter; and

41 (3) the applicant has complied with section 15.4 of this chapter.

42 (b) The application must contain the following additional



1 information:

- 2 (1) The name of the applicant.
- 3 (2) The type of institution to be operated.
- 4 (3) The location of the institution.
- 5 (4) The name of the person to be in charge of the institution.
- 6 (5) If the applicant is a hospital, the range and types of services to
- 7 be provided under the general hospital license, including any
- 8 service that would otherwise require licensure by the state
- 9 department under the authority of IC 16-19.
- 10 (6) Other information the state department requires.

11 (c) If the department of state revenue notifies the department that a
 12 person is on the most recent tax warrant list, the department shall not
 13 issue or renew the person's license until:

- 14 (1) the person provides to the department a statement from the
- 15 department of state revenue that the person's tax warrant has been
- 16 satisfied; or
- 17 (2) the department receives a notice from the commissioner of the
- 18 department of state revenue under IC 6-8.1-8-2(k).

19 ~~(d) An application for an abortion clinic license must require the~~
 20 ~~applicant to do the following:~~

- 21 ~~(1) Disclose whether the applicant, or an owner or affiliate of the~~
- 22 ~~applicant, operated an abortion clinic that was closed as a direct~~
- 23 ~~result of patient health and safety concerns.~~
- 24 ~~(2) Disclose whether a principal or clinic staff member was~~
- 25 ~~convicted of a felony.~~
- 26 ~~(3) Disclose whether a principal or clinic staff member was ever~~
- 27 ~~employed by a facility owned or operated by the applicant that~~
- 28 ~~closed as a result of administrative or legal action.~~
- 29 ~~(4) Provide copies of:~~

30 ~~(A) administrative and legal documentation relating to the~~
 31 ~~information required under subdivisions (1) and (2);~~

32 ~~(B) inspection reports; and~~

33 ~~(C) violation remediation contracts;~~

34 ~~if any.~~

35 SECTION 34. IC 16-21-2-14, AS AMENDED BY P.L.117-2019,
 36 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 37 UPON PASSAGE]: Sec. 14. A license to operate a hospital, an
 38 ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing
 39 center:

40 (1) expires:

41 (A) one (1) year after the date of issuance for:

42 (i) an ambulatory outpatient surgical center;



(ii) ~~an abortion clinic~~;

(iii) ~~(ii)~~ a birthing center; and

(iv) ~~(iii)~~ a hospital until April 30, 2020; and

(B) beginning May 1, 2020, two (2) years after the date of issuance for a hospital;

(2) is not assignable or transferable;

(3) is issued only for the premises named in the application;

(4) must be posted in a conspicuous place in the facility; and

(5) may be renewed each year upon the payment of a renewal fee at the rate adopted by the state department under IC 4-22-2.

SECTION 35. IC 16-21-2-16, AS AMENDED BY P.L.96-2005, SECTION 11, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 16. A hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center that provides to a patient notice concerning a third party billing for a service provided to the patient shall ensure that the notice:

(1) conspicuously states that the notice is not a bill;

(2) does not include a tear-off portion; and

(3) is not accompanied by a return mailing envelope.

SECTION 36. IC 16-25-4.5-1 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 1: ~~The purpose of this chapter is to ensure that:~~

(1) ~~women considering abortion after receiving a diagnosis of a lethal fetal anomaly are informed of the availability of perinatal hospice care; and~~

(2) ~~women choosing abortion after receiving a diagnosis of a lethal fetal anomaly are making a fully informed decision.~~

SECTION 37. IC 16-31-6.5-2, AS AMENDED BY P.L.96-2005, SECTION 12, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. This chapter does not apply to the following:

(1) A licensed physician.

(2) A hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center.

(3) A person providing health care in a hospital, an ambulatory outpatient surgical center, ~~an abortion clinic~~, or a birthing center licensed under IC 16-21.

(4) A person or entity certified under IC 16-31-3.

SECTION 38. IC 16-34 IS REPEALED [EFFECTIVE UPON PASSAGE]. (Abortion).

SECTION 39. IC 16-36-1-3.5, AS ADDED BY P.L.139-2019, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3.5. (a) This section does not apply to consent



1 to the ~~provision of an abortion or~~ completion of a POST form.

2 (b) A minor who:

3 (1) is at least sixteen (16) years of age; and

4 (2) is:

5 (A) pregnant;

6 (B) in labor; or

7 (C) postpartum for a sixty (60) day period after the birth;

8 is competent to give consent for the minor's medical or hospital care
9 and treatment with respect to the pregnancy, delivery, and postpartum
10 care of the minor.

11 (c) Before a health care provider may provide care to a minor
12 described in subsection (b), the health care provider shall, before or at
13 the initial appointment for treatment, make a reasonable effort to
14 contact the minor's parent or guardian for consent to provide the
15 treatment and document in writing each attempt the health care
16 provider made to contact the parent or guardian of the minor. If, after
17 the health care provider has made a reasonable attempt to contact the
18 minor's parent or guardian before or at the initial appointment for
19 treatment, either:

20 (1) the health care provider is unable to make contact; or

21 (2) the parent or guardian of the minor refuses to provide consent
22 for treatment;

23 the health care provider shall act in the manner that is in the best
24 interests of the minor and the ~~fetus~~; **unborn child**.

25 (d) If, after the initial appointment or treatment, the health care
26 provider determines that additional care is in the best interest of the
27 minor and the ~~fetus~~; **unborn child**, the health care provider shall make
28 one (1) additional attempt to contact the parent or guardian of the
29 minor for consent, if applicable, before:

30 (1) the provision of prenatal care;

31 (2) the delivery of the baby; and

32 (3) the provision of postpartum care.

33 SECTION 40. IC 16-41-16-1, AS AMENDED BY P.L.213-2016,
34 SECTION 23, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
35 UPON PASSAGE]: Sec. 1. (a) This chapter applies to persons and
36 facilities that handle infectious waste, including the following:

37 (1) Hospitals.

38 (2) Ambulatory surgical facilities.

39 (3) Medical laboratories.

40 (4) Diagnostic laboratories.

41 (5) Blood centers.

42 (6) Pharmaceutical companies.



- (7) Academic research laboratories.
- (8) Industrial research laboratories.
- (9) Health facilities.
- (10) Offices of health care providers.
- (11) Diet or health care clinics.
- (12) Offices of veterinarians.
- (13) Veterinary hospitals.
- (14) Emergency medical services providers.
- (15) Mortuaries.

~~(16) Abortion clinics.~~

(b) Except as provided in sections 2, 4, and 7.5 of this chapter, this chapter does not apply to:

- (1) home health agencies; or
- (2) hospice services delivered in the home of a hospice patient.

SECTION 41. IC 16-41-16-4, AS AMENDED BY P.L.218-2019, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) Except as provided in subsections (c) and (d), as used in this chapter, "infectious waste" means waste that epidemiologic evidence indicates is capable of transmitting a dangerous communicable disease (as set forth in the list published under IC 16-41-2-1).

(b) The term includes the following:

- (1) Pathological wastes.
- (2) Biological cultures and associated biologicals.
- (3) Contaminated sharps.
- (4) Infectious agent stock and associated biologicals.
- (5) Blood and blood products in liquid or semiliquid form.
- (6) Laboratory animal carcasses, body parts, and bedding.
- (7) Wastes (as described under section 8 of this chapter).

(c) "Infectious waste", as the term applies to a:

- (1) home health agency; or
- (2) hospice service delivered in the home of a hospice patient;

includes only contaminated sharps.

(d) The term does not include ~~an aborted fetus or~~ a miscarried fetus.

SECTION 42. IC 16-41-16-5, AS AMENDED BY P.L.213-2016, SECTION 25, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. As used in this chapter, "pathological waste" includes:

- (1) tissues;
- (2) organs;
- (3) body parts; and
- (4) blood or body fluids in liquid or semiliquid form;



that are removed during surgery, biopsy, or autopsy. The term does not include ~~an aborted fetus or~~ a miscarried fetus.

SECTION 43. IC 16-41-16-7.6, AS ADDED BY P.L.213-2016, SECTION 26, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7.6. (a) This section applies to a person or facility possessing ~~either an aborted fetus or~~ a miscarried fetus.

(b) Within ten (10) business days after a miscarriage occurs, ~~or an abortion is performed,~~ a person or facility described in subsection (a) shall:

(1) conduct the final disposition of ~~a the~~ miscarried fetus ~~or an aborted fetus~~ in the manner required by IC 16-21-11-6; ~~or IC 16-34-3-4;~~ or

(2) ensure that the miscarried fetus ~~or aborted fetus~~ is preserved until final disposition under IC 16-21-11-6 ~~or IC 16-34-3-4~~ occurs.

SECTION 44. IC 16-51 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]:

ARTICLE 51. THE PROTECTION OF LIFE

Chapter 1. General Assembly Findings

Sec. 1. The general assembly finds that human physical life begins when a human ovum is fertilized by a human sperm.

Chapter 2. Protection for a Fetus Born Alive

Sec. 1. Any fetus born alive shall be treated as a person under the law, and a birth certificate shall be issued certifying the child's birth even though the child may subsequently die, in which event a death certificate shall be issued. Failure to take all reasonable steps, in keeping with good medical practice, to preserve the life and health of the live born person shall subject the responsible persons to Indiana laws governing homicide, manslaughter, and civil liability for wrongful death and medical malpractice.

Chapter 3. State Interest in Protecting Human Physical Life

Sec. 1. Indiana asserts a compelling state interest in protecting human physical life from the moment that human physical life begins.

Sec. 2. Indiana's authority to assert its interest in protecting human physical life from the moment that human physical life begins is drawn from the following:

(1) The Tenth Amendment to the Constitution of the United States, which provides that all powers not delegated to the United States elsewhere in the Constitution are reserved to the states or to the people.



(2) The Ninth Amendment to the Constitution of the United States, which provides that the enumeration of certain rights within the Constitution must not be construed to deny or disparage other rights retained by the people.

(3) The Declaration of Independence, which acknowledges that life is endowed to all persons as an inalienable right.

(4) The fact that the governments of the United States and Indiana were instituted by the consent of the people in 1787 and 1816, respectively, to secure the inalienable rights acknowledged by the Declaration of Independence.

Chapter 4. Enforcement

Sec. 1. (a) Any act, law, treaty, order, rule, or regulation of the United States government that fails to protect a person's inalienable right to life is null, void, and unenforceable in Indiana.

(b) The courts of the United States have no jurisdiction to interfere with Indiana's interest in protecting human physical life from the moment that human physical life begins.

(c) Any court decision purporting to:

(1) strike down or enjoin the provisions of this article or a public law enacting this article; or

(2) enjoin the state of Indiana from protecting innocent human physical life from the moment of conception;

shall be treated as nonauthoritative, void, and of no force.

Sec. 2. It is unlawful for any official, agent, or employee of the United States government or an employee of a private entity providing services to the United States government to enforce any act, law, treaty, order, rule, or regulation of the United States government that interferes with Indiana's interest in protecting human physical life from the moment that human physical life begins.

Sec. 3. A prosecuting attorney may seek injunctive relief in the circuit court of the county in which the prosecuting attorney serves to enjoin any official, agent, or employee of the United States government or an employee of a private entity providing services to the United States government from enforcing any act, law, treaty, order, rule, or regulation of the United States government that interferes with Indiana's interest in protecting human physical life from the moment that human physical life begins.

Sec. 4. Indiana's interest in protecting innocent human physical life from the moment of conception shall be enforced by Indiana government officials and agencies, regardless of any court decision to the contrary. All Indiana officials and agencies shall comply



1 with this article and any public law enacting this article, consistent
 2 with the Declaration of Independence, the written Constitution of
 3 the United States, the Ninth, Tenth, and Fourteenth Amendments
 4 to the Constitution of the United States, higher Natural Law, and
 5 the Constitution of the State of Indiana.

6 **Sec. 5. No Indiana government agency or official, including any**
 7 **sheriff, deputy sheriff, or other law enforcement officer, shall give**
 8 **force or effect to any court order in contravention of this article or**
 9 **a public law enacting this article. Cooperative agreements with**
 10 **federal agencies notwithstanding, no Indiana law enforcement**
 11 **agency or law enforcement officer shall assist or cooperate in any**
 12 **way with the arrest or imprisonment of any government official or**
 13 **individual who complies with this article or a public law enacting**
 14 **this article and refuses to comply with any contrary court order.**
 15 **Such contrary orders include, but are not limited to, any order to**
 16 **levy upon property, seize bank accounts, arrest the person, or serve**
 17 **process for the purpose of causing any person to violate this article**
 18 **or a public law enacting this article, or for the purpose of**
 19 **punishing any person for the failure to comply with an order**
 20 **contrary to this article or a public law enacting this article. A**
 21 **federal officer or agent who arrests any Indiana government**
 22 **official for compliance with this article or a public law enacting**
 23 **this article in the face of any contrary court order shall be subject**
 24 **to arrest by Indiana law enforcement.**

25 **Chapter 5. Nonseverability**

26 **Sec. 1. The following are not severable:**

- 27 (1) A bill enacting this article.
 28 (2) The repeal of a statute relating to abortion or the death or
 29 loss of a fetus in a bill described in subdivision (1).
 30 (3) The amendment of any statute relating to abortion or the
 31 death or loss of a fetus in a bill described in subdivision (1).

32 **Sec. 2. The severability provisions of IC 1-1-1-8 do not apply to**
 33 **the following:**

- 34 (1) A bill enacting this article.
 35 (2) The repeal of a statute relating to abortion or the death or
 36 loss of a fetus in a bill described in subdivision (1).
 37 (3) The amendment of any statute relating to abortion or the
 38 death or loss of a fetus in a bill described in subdivision (1).

39 SECTION 45. IC 22-9-1-3, AS AMENDED BY P.L.213-2016,
 40 SECTION 27, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 41 UPON PASSAGE]: Sec. 3. As used in this chapter:

- 42 (a) "Person" means one (1) or more individuals, partnerships,



1 associations, organizations, limited liability companies, corporations,
 2 labor organizations, cooperatives, legal representatives, trustees,
 3 trustees in bankruptcy, receivers, and other organized groups of
 4 persons.

5 (b) "Commission" means the civil rights commission created under
 6 section 4 of this chapter.

7 (c) "Director" means the director of the civil rights commission.

8 (d) "Deputy director" means the deputy director of the civil rights
 9 commission.

10 (e) "Commission attorney" means the deputy attorney general, such
 11 assistants of the attorney general as may be assigned to the
 12 commission, or such other attorney as may be engaged by the
 13 commission.

14 (f) "Consent agreement" means a formal agreement entered into in
 15 lieu of adjudication.

16 (g) "Affirmative action" means those acts that the commission
 17 determines necessary to assure compliance with the Indiana civil rights
 18 law.

19 (h) "Employer" means the state or any political or civil subdivision
 20 thereof and any person employing six (6) or more persons within the
 21 state, except that the term "employer" does not include:

22 (1) any nonprofit corporation or association organized exclusively
 23 for fraternal or religious purposes;

24 (2) any school, educational, or charitable religious institution
 25 owned or conducted by or affiliated with a church or religious
 26 institution; or

27 (3) any exclusively social club, corporation, or association that is
 28 not organized for profit.

29 (i) "Employee" means any person employed by another for wages or
 30 salary. However, the term does not include any individual employed:

31 (1) by the individual's parents, spouse, or child; or

32 (2) in the domestic service of any person.

33 (j) "Labor organization" means any organization that exists for the
 34 purpose in whole or in part of collective bargaining or of dealing with
 35 employers concerning grievances, terms, or conditions of employment
 36 or for other mutual aid or protection in relation to employment.

37 (k) "Employment agency" means any person undertaking with or
 38 without compensation to procure, recruit, refer, or place employees.

39 (l) "Discriminatory practice" means:

40 (1) the exclusion of a person from equal opportunities because of
 41 race, religion, color, sex, disability, national origin, ancestry, or
 42 status as a veteran;



(2) a system that excludes persons from equal opportunities because of race, religion, color, sex, disability, national origin, ancestry, or status as a veteran;

(3) the promotion of racial segregation or separation in any manner, including but not limited to the inducing of or the attempting to induce for profit any person to sell or rent any dwelling by representations regarding the entry or prospective entry in the neighborhood of a person or persons of a particular race, religion, color, sex, disability, national origin, or ancestry;

or

(4) a violation of IC 22-9-5 that occurs after July 25, 1992, and is committed by a covered entity (as defined in IC 22-9-5-4).

~~(5) the performance of an abortion solely because of the race, color, sex, disability, national origin, or ancestry of the fetus; or~~

~~(6) a violation of any of the following statutes protecting the right of conscience regarding abortion:~~

~~(A) IC 16-34-1-4.~~

~~(B) IC 16-34-1-5.~~

~~(C) IC 16-34-1-6.~~

Every discriminatory practice relating to the acquisition or sale of real estate, education, public accommodations, employment, or the extending of credit (as defined in IC 24-4.5-1-301.5) shall be considered unlawful unless it is specifically exempted by this chapter.

(m) "Public accommodation" means any establishment that caters or offers its services or facilities or goods to the general public.

(n) "Complainant" means:

(1) any individual charging on the individual's own behalf to have been personally aggrieved by a discriminatory practice; or

(2) the director or deputy director of the commission charging that a discriminatory practice was committed against a person (other than the director or deputy director) or a class of people, in order to vindicate the public policy of the state (as defined in section 2 of this chapter).

(o) "Complaint" means any written grievance that is:

(1) sufficiently complete and filed by a complainant with the commission; or

(2) filed by a complainant as a civil action in the circuit or superior court having jurisdiction in the county in which the alleged discriminatory practice occurred.

The original of any complaint filed under subdivision (1) shall be signed and verified by the complainant.

(p) "Sufficiently complete" refers to a complaint that includes:



- (1) the full name and address of the complainant;
- (2) the name and address of the respondent against whom the complaint is made;
- (3) the alleged discriminatory practice and a statement of particulars thereof;
- (4) the date or dates and places of the alleged discriminatory practice and if the alleged discriminatory practice is of a continuing nature the dates between which continuing acts of discrimination are alleged to have occurred; and
- (5) a statement as to any other action, civil or criminal, instituted in any other form based upon the same grievance alleged in the complaint, together with a statement as to the status or disposition of the other action.

No complaint shall be valid unless filed within one hundred eighty (180) days from the date of the occurrence of the alleged discriminatory practice.

(q) "Sex" as it applies to segregation or separation in this chapter applies to all types of employment, education, public accommodations, and housing. However:

- (1) it shall not be a discriminatory practice to maintain separate restrooms;
- (2) it shall not be an unlawful employment practice for an employer to hire and employ employees, for an employment agency to classify or refer for employment any individual, for a labor organization to classify its membership or to classify or refer for employment any individual, or for an employer, labor organization, or joint labor management committee controlling apprenticeship or other training or retraining programs to admit or employ any other individual in any program on the basis of sex in those certain instances where sex is a bona fide occupational qualification reasonably necessary to the normal operation of that particular business or enterprise; and
- (3) it shall not be a discriminatory practice for a private or religious educational institution to continue to maintain and enforce a policy of admitting students of one (1) sex only.

(r) "Disabled" or "disability" means the physical or mental condition of a person that constitutes a substantial disability. In reference to employment under this chapter, "disabled or disability" also means the physical or mental condition of a person that constitutes a substantial disability unrelated to the person's ability to engage in a particular occupation.

(s) "Veteran" means:



- (1) a veteran of the armed forces of the United States;
- (2) a member of the Indiana National Guard; or
- (3) a member of a reserve component.

SECTION 46. IC 23-14-31-39, AS AMENDED BY P.L.213-2016, SECTION 28, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 39. (a) Except as provided in IC 16-21-11-6, ~~and IC 16-34-3-4,~~ a crematory authority shall not perform the simultaneous cremation of the human remains of more than one (1) individual within the same cremation chamber unless it has obtained the prior written consent of the authorizing agents.

(b) Subsection (a) does not prevent the simultaneous cremation within the same cremation chamber of body parts delivered to the crematory authority from multiple sources, or the use of cremation equipment that contains more than one (1) cremation chamber.

SECTION 47. IC 25-22.5-2-8, AS AMENDED BY P.L.177-2015, SECTION 47, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 8. (a) The board shall implement a program to investigate and assess a civil penalty of not more than one thousand dollars (\$1,000) against a physician licensed under this article for the following violations:

- (1) Licensure renewal fraud.
- (2) Improper termination of a physician and patient relationship.
- (3) Practicing with an expired medical license.
- (4) Providing office based anesthesia without the proper accreditation.
- (5) Failure to perform duties required for issuing birth or death certificates.
- (6) Failure to disclose, or negligent omission of, documentation requested for licensure renewal.
- ~~(7) Failure to complete or timely transmit a pregnancy termination form under IC 16-34-2-5, with each failure constituting a separate violation.~~

(b) An individual who is investigated by the board and found by the board to have committed a violation specified in subsection (a) may appeal the determination made by the board in accordance with IC 4-21.5.

(c) In accordance with the federal Health Care Quality Improvement Act (42 U.S.C. 11132), the board shall report a disciplinary board action that is subject to reporting to the National Practitioner Data Bank. However, the board may not report board action against a physician for only an administrative penalty described in subsection (a). The board's action concerning disciplinary action or an



1 administrative penalty described in subsection (a) shall be conducted
2 at a hearing that is open to the public.

3 (d) The physician compliance fund is established to provide funds
4 for administering and enforcing the investigation of violations specified
5 in subsection (a). The fund shall be administered by the Indiana
6 professional licensing agency.

7 (e) The expenses of administering the physician compliance fund
8 shall be paid from the money in the fund. The fund consists of penalties
9 collected through investigations and assessments by the board
10 concerning violations specified in subsection (a). Money in the fund at
11 the end of a state fiscal year does not revert to the state general fund.

12 SECTION 48. IC 25-22.5-8-6 IS REPEALED [EFFECTIVE UPON
13 PASSAGE]. Sec. 6: (a) As used in this section, "abortion" has the
14 meaning set forth in IC 16-18-2-1.

15 (b) Notwithstanding IC 25-1-9, the board may revoke the license of
16 a physician if, after appropriate notice and an opportunity for a hearing,
17 the attorney general proves by a preponderance of the evidence that the
18 physician:

19 (1) failed to transmit the form to the state department of health as
20 described in IC 16-34-2-5(b); or

21 (2) performed an abortion in violation of IC 16-34-2-7(a) through
22 IC 16-34-2-7(c) with the intent to avoid the requirements of
23 IC 16-34-2.

24 SECTION 49. IC 25-36.1-2-1, AS ADDED BY P.L.97-2009,
25 SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
26 UPON PASSAGE]: Sec. 1. As used in this chapter, "health care
27 facility" means the following:

28 (1) A hospital that is licensed under IC 16-21-2.

29 (2) An ambulatory outpatient surgical center licensed under
30 IC 16-21-2.

31 (3) A birthing center licensed under IC 16-21-2.

32 (4) ~~An abortion clinic licensed under IC 16-21-2.~~

33 SECTION 50. IC 27-8-13.4 IS REPEALED [EFFECTIVE UPON
34 PASSAGE]. (Coverage for Abortion).

35 SECTION 51. IC 27-8-33 IS REPEALED [EFFECTIVE UPON
36 PASSAGE]. (Health Care Exchanges and Abortion).

37 SECTION 52. IC 27-13-7-7.5 IS REPEALED [EFFECTIVE UPON
38 PASSAGE]. Sec. 7.5: (a) ~~A health maintenance organization that
39 provides coverage for basic health care services and that is entered
40 into, delivered, amended, or renewed after December 31, 2014, under
41 a group contract or an individual contract may not provide coverage for
42 abortion, except in the following cases:~~



(1) The pregnant woman became pregnant through an act of rape or incest.

(2) An abortion is necessary to avert the pregnant woman's death or a substantial and irreversible impairment of a major bodily function of the pregnant woman.

(b) A health maintenance organization that enters into a group contract or an individual contract described in subsection (a) may offer coverage for abortion through a rider or an endorsement.

SECTION 53. IC 31-9-2-84.8, AS AMENDED BY P.L.243-2019, SECTION 4, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 84.8. "Nonwaivable offense", for purposes of this title, means a conviction of any of the following felonies:

(1) Murder (IC 35-42-1-1).

(2) Causing suicide (IC 35-42-1-2).

(3) Assisting suicide (IC 35-42-1-2.5).

(4) Voluntary manslaughter (IC 35-42-1-3).

(5) Involuntary manslaughter (IC 35-42-1-4).

(6) Reckless homicide (IC 35-42-1-5).

~~(7) Feticide (IC 35-42-1-6).~~

~~(8)~~ (7) Battery (IC 35-42-2-1) within the past five (5) years.

~~(9)~~ (8) Domestic battery (IC 35-42-2-1.3).

~~(10)~~ (9) Aggravated battery (IC 35-42-2-1.5).

~~(11)~~ (10) Criminal recklessness (IC 35-42-2-2) within the past five (5) years.

~~(12)~~ (11) Strangulation (IC 35-42-2-9).

~~(13)~~ (12) Kidnapping (IC 35-42-3-2).

~~(14)~~ (13) Criminal confinement (IC 35-42-3-3) within the past five (5) years.

~~(15)~~ (14) Human and sexual trafficking (IC 35-42-3.5).

~~(16)~~ (15) A felony sex offense under IC 35-42-4.

~~(17)~~ (16) Arson (IC 35-43-1-1) within the past five (5) years.

~~(18)~~ (17) Incest (IC 35-46-1-3).

~~(19)~~ (18) Neglect of a dependent (IC 35-46-1-4(a) and IC 35-46-1-4(b)).

~~(20)~~ (19) Child selling (IC 35-46-1-4(d)).

~~(21)~~ (20) Reckless supervision (IC 35-46-1-4.1).

~~(22)~~ (21) Nonsupport of a dependent child (IC 35-46-1-5) within the past five (5) years.

~~(23)~~ (22) Operating a motorboat while intoxicated (IC 35-46-9-6) within the past five (5) years.

~~(24)~~ (23) A felony involving a weapon under IC 35-47 within the past five (5) years.



~~(25)~~ **(24)** A felony relating to controlled substances under IC 35-48-4 within the past five (5) years.

~~(26)~~ **(25)** An offense relating to material or a performance that is harmful to minors or obscene under IC 35-49-3.

~~(27)~~ **(26)** A felony under IC 9-30-5 within the past five (5) years.

~~(28)~~ **(27)** A felony related to the health or safety of a child (as defined in IC 31-9-2-13(h)) or an endangered adult (as defined in IC 12-10-3-2).

~~(29)~~ **(28)** Attempt (IC 35-41-5-1) to commit a felony described in subdivisions (1) through ~~(28)~~; **(27)**. If a conviction for a felony is nonwaivable for a stated duration under subdivisions (1) through ~~(28)~~; **(27)**, a conviction for an attempt to commit the felony is nonwaivable for the same duration under this subdivision.

~~(30)~~ **(29)** A felony that is substantially equivalent to a felony described in subdivisions (1) through ~~(29)~~ **(28)** for which the conviction was entered in another jurisdiction. If a conviction for a felony is nonwaivable for a stated duration under subdivisions (1) through ~~(29)~~; **(28)**, a conviction for a substantially equivalent felony in another jurisdiction is nonwaivable for the same duration under this subdivision.

SECTION 54. IC 31-39-1-1, AS AMENDED BY P.L.1-2014, SECTION 1, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This chapter applies to all records of the juvenile court except the following:

(1) Records involving an adult charged with a crime or criminal contempt of court.

(2) Records involving a pregnant minor or her physician seeking a waiver of the requirement under IC 35-1-58.5-2.5 (before its repeal) or IC 16-34-2-4 (**before its repeal**) that a physician who performs an abortion on an unemancipated minor first obtain the written consent of the minor's parent or guardian.

(3) Records involving proceedings that pertain to:

(A) paternity issues;

(B) custody issues;

(C) parenting time issues; or

(D) child support issues;

concerning a child born to parents who are not married to each other.

(b) The legal records subject to this chapter include the following:

(1) Chronological case summaries.

(2) Index entries.

(3) Summonses.



- 1 (4) Warrants.
- 2 (5) Petitions.
- 3 (6) Orders.
- 4 (7) Motions.
- 5 (8) Decrees.

6 SECTION 55. IC 31-39-2-1, AS AMENDED BY P.L.1-2014,
 7 SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 8 UPON PASSAGE]: Sec. 1. (a) This chapter applies to all records of the
 9 juvenile court except the following:

- 10 (1) Records involving an adult charged with a crime or criminal
- 11 contempt of court.
- 12 (2) Records involving a pregnant minor or her physician seeking
- 13 a waiver of the requirement under IC 35-1-58.5-2.5 (before its
- 14 repeal) or IC 16-34-2-4 (**before its repeal**) that a physician who
- 15 performs an abortion on an unemancipated minor first obtain the
- 16 written consent of the minor's parent or guardian.
- 17 (3) Records involving proceedings that pertain to:
- 18 (A) paternity issues;
- 19 (B) custody issues;
- 20 (C) parenting time issues; or
- 21 (D) child support issues;
- 22 concerning a child born to parents who are not married to each
- 23 other.
- 24 (b) The legal records subject to this chapter include the following:
- 25 (1) Chronological case summaries.
- 26 (2) Index summaries.
- 27 (3) Summonses.
- 28 (4) Warrants.
- 29 (5) Petitions.
- 30 (6) Orders.
- 31 (7) Motions.
- 32 (8) Decrees.

33 SECTION 56. IC 34-23-2-1, AS AMENDED BY P.L.129-2009,
 34 SECTION 8, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 35 UPON PASSAGE]: Sec. 1. ~~(a) This section does not apply to an~~
 36 ~~abortion performed in compliance with:~~

- 37 ~~(1) IC 16-34; or~~
- 38 ~~(2) IC 35-1-58.5 (before its repeal);~~
- 39 ~~(b) (a)~~ As used in this section, "child" means an unmarried
- 40 individual without dependents who is:
- 41 (1) less than twenty (20) years of age; or
- 42 (2) less than twenty-three (23) years of age and is enrolled in a



postsecondary educational institution or a career and technical education school or program that is not a postsecondary educational program.

The term includes a ~~fetus that has attained viability (as defined in IC 16-18-2-365):~~ **an unborn child.**

~~(c)~~ **(b)** An action may be maintained under this section against the person whose wrongful act or omission caused the injury or death of a child. The action may be maintained by:

(1) the father and mother jointly, or either of them by naming the other parent as a codefendant to answer as to ~~his or her the~~ **parent's** interest;

(2) in case of divorce or dissolution of marriage, the person to whom custody of the child was awarded; and

(3) a guardian, for the injury or death of a protected person.

~~(d)~~ **(c)** In case of death of the person to whom custody of a child was awarded, a personal representative shall be appointed to maintain the action for the injury or death of the child.

~~(e)~~ **(d)** In an action brought by a guardian for an injury to a protected person, the damages inure to the benefit of the protected person.

~~(f)~~ **(e)** In an action to recover for the death of a child, the plaintiff may recover damages:

(1) for the loss of the child's services;

(2) for the loss of the child's love and companionship; and

(3) to pay the expenses of:

(A) health care and hospitalization necessitated by the wrongful act or omission that caused the child's death;

(B) the child's funeral and burial;

(C) the reasonable expense of psychiatric and psychological counseling incurred by a surviving parent or minor sibling of the child that is required because of the death of the child;

(D) uninsured debts of the child, including debts for which a parent is obligated on behalf of the child; and

(E) the administration of the child's estate, including reasonable attorney's fees.

~~(g)~~ **(f)** Damages may be awarded under this section only with respect to the period of time from the death of the child until:

(1) the date that the child would have reached:

(A) twenty (20) years of age; or

(B) twenty-three (23) years of age, if the child was enrolled in a postsecondary educational institution or in a career and technical education school or program that is not a postsecondary educational program; or



(2) the date of the child's last surviving parent's death;
whichever first occurs.

~~(h)~~ **(g)** Damages may be awarded under subsection ~~(f)(2)~~ **(e)(2)** only with respect to the period of time from the death of the child until the date of the child's last surviving parent's death.

~~(i)~~ **(h)** Damages awarded under subsection ~~(f)(1)~~, ~~(f)(2)~~, ~~(f)(3)(C)~~, and ~~(f)(3)(D)~~ **(e)(1), (e)(2), (e)(3)(C), and (e)(3)(D)** inure to the benefit of:

(1) the father and mother jointly if both parents had custody of the child;

(2) the custodial parent, or custodial grandparent, and the noncustodial parent of the deceased child as apportioned by the court according to their respective losses; or

(3) a custodial grandparent of the child if the child was not survived by a parent entitled to benefit under this section.

However, a parent or grandparent who abandoned a deceased child while the child was alive is not entitled to any recovery under this chapter.

~~(j)~~ **(i)** This section does not affect or supersede any other right, remedy, or defense provided by any other law.

SECTION 57. IC 35-31.5-2-132 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 132. "Fetus", for purposes of IC 35-42-1-4, has the meaning set forth in IC 35-42-1-4(a).~~

SECTION 58. IC 35-31.5-2-160, AS ADDED BY P.L.114-2012, SECTION 67, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 160. "Human being" means an individual ~~who has been born and is alive.~~ **having human physical life (as described by IC 16-51-1-1), regardless of whether the individual has been born.**

SECTION 59. IC 35-42-1-0.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. ~~Sec. 0.5. Sections 1, 3, and 4 of this chapter do not apply to an abortion performed in compliance with:~~

~~(1) IC 16-34; or~~

~~(2) IC 35-1-58.5 (before its repeal).~~

SECTION 60. IC 35-42-1-1, AS AMENDED BY P.L.215-2018(ss), SECTION 16, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who:

(1) knowingly or intentionally kills another human being;

(2) kills another human being while committing or attempting to commit arson, burglary, child molesting, consumer product tampering, criminal deviate conduct (under IC 35-42-4-2 before its repeal), kidnapping, rape, robbery, human trafficking,



promotion of human labor trafficking, promotion of human sexual trafficking, promotion of child sexual trafficking, promotion of sexual trafficking of a younger child, child sexual trafficking, or carjacking (before its repeal); **or**

(3) kills another human being while committing or attempting to commit:

(A) dealing in or manufacturing cocaine or a narcotic drug (IC 35-48-4-1);

(B) dealing in methamphetamine (IC 35-48-4-1.1);

(C) manufacturing methamphetamine (IC 35-48-4-1.2);

(D) dealing in a schedule I, II, or III controlled substance (IC 35-48-4-2);

(E) dealing in a schedule IV controlled substance (IC 35-48-4-3); or

(F) dealing in a schedule V controlled substance; **or**

~~(4) except as provided in section 6.5 of this chapter, knowingly or intentionally kills a fetus in any stage of development;~~

commits murder, a felony.

SECTION 61. IC 35-42-1-3, AS AMENDED BY P.L.203-2018, SECTION 2, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. (a) A person who knowingly or intentionally

~~(1) kills another human being or~~

~~(2) except as provided in section 6.5 of this chapter, kills a fetus in any stage of development;~~

while acting under sudden heat commits voluntary manslaughter, a Level 2 felony.

(b) The existence of sudden heat is a mitigating factor that reduces what otherwise would be murder under section 1(1) of this chapter to voluntary manslaughter.

SECTION 62. IC 35-42-1-4, AS AMENDED BY P.L.203-2018, SECTION 3, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) ~~As used in this section, "fetus" means a fetus in any stage of development.~~

~~(b) A person who kills another human being while committing or attempting to commit:~~

~~(1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;~~

~~(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury; or~~

~~(3) battery;~~

commits involuntary manslaughter, a Level 5 felony.



(c) Except as provided in section 6.5 of this chapter, a person who kills a fetus while committing or attempting to commit:

(1) a Level 5 or Level 6 felony that inherently poses a risk of serious bodily injury;

(2) a Class A misdemeanor that inherently poses a risk of serious bodily injury;

(3) a battery offense included in IC 35-42-2; or

(4) a violation of IC 9-30-5-1 through IC 9-30-5-5 (operating a vehicle while intoxicated);

commits involuntary manslaughter; a Level 5 felony.

SECTION 63. IC 35-42-1-6 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 6. Except as provided in section 6.5 of this chapter, a person who knowingly or intentionally terminates a human pregnancy with an intention other than to produce a live birth or to remove a dead fetus commits feticide; a Level 3 felony.

SECTION 64. IC 35-42-1-6.5 IS REPEALED [EFFECTIVE UPON PASSAGE]. Sec. 6.5: (a) The following sections of this chapter do not apply to an abortion performed in compliance with IC 16-34 or IC 35-1-58.5 (before its repeal):

(1) Section 1 (murder);

(2) Section 3 (voluntary manslaughter);

(3) Section 4 (involuntary manslaughter);

(4) Section 6 (feticide);

(b) The following sections of this chapter do not apply to a pregnant woman who terminates her own pregnancy or kills a fetus that she is carrying:

(1) Section 1 (murder);

(2) Section 3 (voluntary manslaughter);

(3) Section 4 (involuntary manslaughter);

(4) Section 6 (feticide);

SECTION 65. IC 35-42-2-1.5, AS AMENDED BY P.L.158-2013, SECTION 422, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. A person who knowingly or intentionally inflicts injury on a person that creates a substantial risk of death or causes:

(1) serious permanent disfigurement; or

(2) protracted loss or impairment of the function of a bodily member or organ; or

(3) the loss of a fetus;

commits aggravated battery, a Level 3 felony. However, the offense is a Level 1 felony if it results in the death of a child less than fourteen (14) years of age and is committed by a person at least eighteen (18)



1 years of age.

2 SECTION 66. IC 35-50-2-9, AS AMENDED BY P.L.65-2016,
 3 SECTION 40, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 4 UPON PASSAGE]: Sec. 9. (a) The state may seek either a death
 5 sentence or a sentence of life imprisonment without parole for murder
 6 by alleging, on a page separate from the rest of the charging instrument,
 7 the existence of at least one (1) of the aggravating circumstances listed
 8 in subsection (b). In the sentencing hearing after a person is convicted
 9 of murder, the state must prove beyond a reasonable doubt the
 10 existence of at least one (1) of the aggravating circumstances alleged.
 11 However, the state may not proceed against a defendant under this
 12 section if a court determines at a pretrial hearing under IC 35-36-9 that
 13 the defendant is an individual with an intellectual disability.

14 (b) The aggravating circumstances are as follows:

15 (1) The defendant committed the murder by intentionally killing
 16 the victim while committing or attempting to commit any of the
 17 following:

- 18 (A) Arson (IC 35-43-1-1).
- 19 (B) Burglary (IC 35-43-2-1).
- 20 (C) Child molesting (IC 35-42-4-3).
- 21 (D) Criminal deviate conduct (IC 35-42-4-2) (before its
- 22 repeal).
- 23 (E) Kidnapping (IC 35-42-3-2).
- 24 (F) Rape (IC 35-42-4-1).
- 25 (G) Robbery (IC 35-42-5-1).
- 26 (H) Carjacking (IC 35-42-5-2) (before its repeal).
- 27 (I) Criminal organization activity (IC 35-45-9-3).
- 28 (J) Dealing in cocaine or a narcotic drug (IC 35-48-4-1).
- 29 (K) Criminal confinement (IC 35-42-3-3).

30 (2) The defendant committed the murder by the unlawful
 31 detonation of an explosive with intent to injure a person or
 32 damage property.

33 (3) The defendant committed the murder by lying in wait.

34 (4) The defendant who committed the murder was hired to kill.

35 (5) The defendant committed the murder by hiring another person
 36 to kill.

37 (6) The victim of the murder was a corrections employee,
 38 probation officer, parole officer, community corrections worker,
 39 home detention officer, fireman, judge, or law enforcement
 40 officer, and either:

41 (A) the victim was acting in the course of duty; or

42 (B) the murder was motivated by an act the victim performed



- 1 while acting in the course of duty.
- 2 (7) The defendant has been convicted of another murder.
- 3 (8) The defendant has committed another murder, at any time,
- 4 regardless of whether the defendant has been convicted of that
- 5 other murder.
- 6 (9) The defendant was:
- 7 (A) under the custody of the department of correction;
- 8 (B) under the custody of a county sheriff;
- 9 (C) on probation after receiving a sentence for the commission
- 10 of a felony; or
- 11 (D) on parole;
- 12 at the time the murder was committed.
- 13 (10) The defendant dismembered the victim.
- 14 (11) The defendant:
- 15 (A) burned, mutilated, or tortured the victim; or
- 16 (B) decapitated or attempted to decapitate the victim;
- 17 while the victim was alive.
- 18 (12) The victim of the murder was less than twelve (12) years of
- 19 age.
- 20 (13) The victim was a victim of any of the following offenses for
- 21 which the defendant was convicted:
- 22 (A) A battery offense included in IC 35-42-2 committed before
- 23 July 1, 2014, as a Class D felony or as a Class C felony, or a
- 24 battery offense included in IC 35-42-2 committed after June
- 25 30, 2014, as a Level 6 felony, a Level 5 felony, a Level 4
- 26 felony, or a Level 3 felony.
- 27 (B) Kidnapping (IC 35-42-3-2).
- 28 (C) Criminal confinement (IC 35-42-3-3).
- 29 (D) A sex crime under IC 35-42-4.
- 30 (14) The victim of the murder was listed by the state or known by
- 31 the defendant to be a witness against the defendant and the
- 32 defendant committed the murder with the intent to prevent the
- 33 person from testifying.
- 34 (15) The defendant committed the murder by intentionally
- 35 discharging a firearm (as defined in IC 35-47-1-5):
- 36 (A) into an inhabited dwelling; or
- 37 (B) from a vehicle.
- 38 (16) The victim of the murder was pregnant and the murder
- 39 resulted in the intentional killing of ~~a fetus that has attained~~
- 40 ~~viability (as defined in IC 16-18-2-365);~~ **the victim's unborn**
- 41 **child.**
- 42 (17) The defendant knowingly or intentionally:



- 1 (A) committed the murder:
- 2 (i) in a building primarily used for an educational purpose;
- 3 (ii) on school property; and
- 4 (iii) when students are present; or
- 5 (B) committed the murder:
- 6 (i) in a building or other structure owned or rented by a state
- 7 educational institution or any other public or private
- 8 postsecondary educational institution and primarily used for
- 9 an educational purpose; and
- 10 (ii) at a time when classes are in session.
- 11 (18) The murder is committed:
- 12 (A) in a building that is primarily used for religious worship;
- 13 and
- 14 (B) at a time when persons are present for religious worship or
- 15 education.
- 16 (c) The mitigating circumstances that may be considered under this
- 17 section are as follows:
- 18 (1) The defendant has no significant history of prior criminal
- 19 conduct.
- 20 (2) The defendant was under the influence of extreme mental or
- 21 emotional disturbance when the murder was committed.
- 22 (3) The victim was a participant in or consented to the defendant's
- 23 conduct.
- 24 (4) The defendant was an accomplice in a murder committed by
- 25 another person, and the defendant's participation was relatively
- 26 minor.
- 27 (5) The defendant acted under the substantial domination of
- 28 another person.
- 29 (6) The defendant's capacity to appreciate the criminality of the
- 30 defendant's conduct or to conform that conduct to the
- 31 requirements of law was substantially impaired as a result of
- 32 mental disease or defect or of intoxication.
- 33 (7) The defendant was less than eighteen (18) years of age at the
- 34 time the murder was committed.
- 35 (8) Any other circumstances appropriate for consideration.
- 36 (d) If the defendant was convicted of murder in a jury trial, the jury
- 37 shall reconvene for the sentencing hearing. If the trial was to the court,
- 38 or the judgment was entered on a guilty plea, the court alone shall
- 39 conduct the sentencing hearing. The jury or the court may consider all
- 40 the evidence introduced at the trial stage of the proceedings, together
- 41 with new evidence presented at the sentencing hearing. The court shall
- 42 instruct the jury concerning the statutory penalties for murder and any



1 other offenses for which the defendant was convicted, the potential for
 2 consecutive or concurrent sentencing, and the availability of
 3 educational credit, good time credit, and clemency. The court shall
 4 instruct the jury that, in order for the jury to recommend to the court
 5 that the death penalty or life imprisonment without parole should be
 6 imposed, the jury must find at least one (1) aggravating circumstance
 7 beyond a reasonable doubt as described in subsection (l) and shall
 8 provide a special verdict form for each aggravating circumstance
 9 alleged. The defendant may present any additional evidence relevant
 10 to:

11 (1) the aggravating circumstances alleged; or

12 (2) any of the mitigating circumstances listed in subsection (c).

13 (e) For a defendant sentenced after June 30, 2002, except as
 14 provided by IC 35-36-9, if the hearing is by jury, the jury shall
 15 recommend to the court whether the death penalty or life imprisonment
 16 without parole, or neither, should be imposed. The jury may
 17 recommend:

18 (1) the death penalty; or

19 (2) life imprisonment without parole;

20 only if it makes the findings described in subsection (l). If the jury
 21 reaches a sentencing recommendation, the court shall sentence the
 22 defendant accordingly. After a court pronounces sentence, a
 23 representative of the victim's family and friends may present a
 24 statement regarding the impact of the crime on family and friends. The
 25 impact statement may be submitted in writing or given orally by the
 26 representative. The statement shall be given in the presence of the
 27 defendant.

28 (f) If a jury is unable to agree on a sentence recommendation after
 29 reasonable deliberations, the court shall discharge the jury and proceed
 30 as if the hearing had been to the court alone.

31 (g) If the hearing is to the court alone, except as provided by
 32 IC 35-36-9, the court shall:

33 (1) sentence the defendant to death; or

34 (2) impose a term of life imprisonment without parole;

35 only if it makes the findings described in subsection (l).

36 (h) If a court sentences a defendant to death, the court shall order
 37 the defendant's execution to be carried out not later than one (1) year
 38 and one (1) day after the date the defendant was convicted. The
 39 supreme court has exclusive jurisdiction to stay the execution of a
 40 death sentence. If the supreme court stays the execution of a death
 41 sentence, the supreme court shall order a new date for the defendant's
 42 execution.



(i) If a person sentenced to death by a court files a petition for post-conviction relief, the court, not later than ninety (90) days after the date the petition is filed, shall set a date to hold a hearing to consider the petition. If a court does not, within the ninety (90) day period, set the date to hold the hearing to consider the petition, the court's failure to set the hearing date is not a basis for additional post-conviction relief. The attorney general shall answer the petition for post-conviction relief on behalf of the state. At the request of the attorney general, a prosecuting attorney shall assist the attorney general. The court shall enter written findings of fact and conclusions of law concerning the petition not later than ninety (90) days after the date the hearing concludes. However, if the court determines that the petition is without merit, the court may dismiss the petition within ninety (90) days without conducting a hearing under this subsection.

(j) A death sentence is subject to automatic review by the supreme court. The review, which shall be heard under rules adopted by the supreme court, shall be given priority over all other cases. The supreme court's review must take into consideration all claims that the:

(1) conviction or sentence was in violation of the:

(A) Constitution of the State of Indiana; or

(B) Constitution of the United States;

(2) sentencing court was without jurisdiction to impose a sentence; and

(3) sentence:

(A) exceeds the maximum sentence authorized by law; or

(B) is otherwise erroneous.

If the supreme court cannot complete its review by the date set by the sentencing court for the defendant's execution under subsection (h), the supreme court shall stay the execution of the death sentence and set a new date to carry out the defendant's execution.

(k) A person who has been sentenced to death and who has completed state post-conviction review proceedings may file a written petition with the supreme court seeking to present new evidence challenging the person's guilt or the appropriateness of the death sentence if the person serves notice on the attorney general. The supreme court shall determine, with or without a hearing, whether the person has presented previously undiscovered evidence that undermines confidence in the conviction or the death sentence. If necessary, the supreme court may remand the case to the trial court for an evidentiary hearing to consider the new evidence and its effect on the person's conviction and death sentence. The supreme court may not make a determination in the person's favor nor make a decision to



1 remand the case to the trial court for an evidentiary hearing without
 2 first providing the attorney general with an opportunity to be heard on
 3 the matter.

4 (l) Before a sentence may be imposed under this section, the jury,
 5 in a proceeding under subsection (e), or the court, in a proceeding
 6 under subsection (g), must find that:

7 (1) the state has proved beyond a reasonable doubt that at least
 8 one (1) of the aggravating circumstances listed in subsection (b)
 9 exists; and

10 (2) any mitigating circumstances that exist are outweighed by the
 11 aggravating circumstance or circumstances.

12 SECTION 67. IC 35-50-2-16, AS AMENDED BY P.L.203-2018,
 13 SECTION 6, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 14 UPON PASSAGE]: Sec. 16. ~~(a) This section does not apply to:~~

15 ~~(1) a pregnant woman who terminates or causes the termination~~
 16 ~~of her own pregnancy; or~~

17 ~~(2) an abortion performed in compliance with IC 16-34.~~

18 ~~(b) (a)~~ The state may seek, on a page separate from the rest of the
 19 charging instrument, to have a person who allegedly committed or
 20 attempted to commit a felony sentenced to an additional fixed term of
 21 imprisonment if the state can show beyond a reasonable doubt that the
 22 person, while committing or attempting to commit the felony, caused
 23 the termination of a human pregnancy.

24 ~~(c) (b)~~ If the person is convicted of the felony in a jury trial, the jury
 25 shall reconvene to hear evidence in the enhancement hearing. If the
 26 trial was to the court, or the judgment was entered on a guilty plea, the
 27 court alone shall hear evidence in the enhancement hearing.

28 ~~(d) (c)~~ If the jury (if the hearing is by jury) or the court (if the
 29 hearing is to the court alone) finds that the state has proved beyond a
 30 reasonable doubt that the person, while committing or attempting to
 31 commit a felony, caused the termination of a human pregnancy, the
 32 court shall sentence the person to an additional fixed term of
 33 imprisonment of not less than six (6) or more than twenty (20) years.

34 ~~(e) (d)~~ A sentence imposed under this section runs consecutively to
 35 the underlying sentence.

36 ~~(f) (e)~~ For purposes of this section, prosecution of the felony and the
 37 enhancement of the penalty for that crime does not require proof that:

38 (1) the person committing or attempting to commit the felony had
 39 knowledge or should have had knowledge that the victim was
 40 pregnant; or

41 (2) the defendant intended to cause the termination of a human
 42 pregnancy.



1 SECTION 68. IC 35-52-16-20.7 IS REPEALED [EFFECTIVE
2 UPON PASSAGE]. ~~Sec. 20.7. IC 16-34-2-4 defines a crime concerning~~
3 ~~abortion.~~
4 SECTION 69. IC 35-52-16-20.9 IS REPEALED [EFFECTIVE
5 UPON PASSAGE]. ~~Sec. 20.9. IC 16-34-2-4.7 defines a crime~~
6 ~~concerning abortion.~~
7 SECTION 70. IC 35-52-16-21 IS REPEALED [EFFECTIVE UPON
8 PASSAGE]. ~~Sec. 21. IC 16-34-2-5 defines a crime concerning~~
9 ~~abortion.~~
10 SECTION 71. IC 35-52-16-22 IS REPEALED [EFFECTIVE UPON
11 PASSAGE]. ~~Sec. 22. IC 16-34-2-6 defines crimes concerning abortion.~~
12 SECTION 72. IC 35-52-16-23 IS REPEALED [EFFECTIVE UPON
13 PASSAGE]. ~~Sec. 23. IC 16-34-2-7 defines a crime concerning~~
14 ~~abortion.~~
15 SECTION 73. **An emergency is declared for this act.**
16

